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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter Of: Trademark Application No. 78/051723 for
HUMMER (STYLIZED) in Class 25, Published October 2, 2001

HUMMEL A/S,

Opposer,

v.

GENERAL MOTORS CORPORATION

Applicant.

Opposition No. 125,320

TRADEMARK TRIAL AND
APPEAL BOARD
02 MAY 20 AM 8:23

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, General Motors Corporation, by and through its attorneys, answers the Notice
of Opposition of Hummel A/S in the captioned proceeding as follows:

"Express Mail" No.: ET537518993US

Date of Deposit : May 13, 2002

I hereby certify that this paper or fee is being
deposited with the United States Postal Service
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service under 37 CFR 1.10 on the date
indicated above and is addressed to the
Assistant Commissioner for Trademarks, 2900
Crystal Drive, Arlington, Virginia 22202-3513

MARIE ANNE MASTROVITO

Marie Anne Mastrovito

(Signature of person mailing paper or fee)

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1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Notice of Opposition, and therefore denies same.

2. Applicant denies the allegations in paragraph 2 of the Notice of Opposition that the identified trademark registrations are evidence of Opposer's exclusive right to use the mark **HUMMEL** in commerce on the goods specified in said registrations. As Registration No. 1,693,697 covers the stylized mark **HUMMEL** on the Supplemental Register, this registration does not confer the presumption of exclusive rights. Moreover, as Registration No. 954,957 covers the mark **HUMMEL AND DESIGN** this registration does not serve as evidence of Opposer's right to use the mark **HUMMEL** alone. With respect to the allegations in paragraph 2 alleging that the registrations are valid and subsisting, Applicant is without sufficient information to form a belief as to the truth of these allegations and therefore denies same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Notice of Opposition, and therefore denies same.

4. Applicant denies the allegations in paragraph 4 of the Notice of Opposition.

5. Applicant denies the allegations in paragraph 5 of the Notice of Opposition.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Notice of Opposition, and therefore denies same.

AFFIRMATIVE DEFENSES

1. In addition to the differences in the appearance of the words **HUMMER** and **HUMMEL**, the mark shown in the Applicant's application and the marks covered by the Opposer's claimed registrations appear with different lettering styles and design elements. Thus, the marks as a whole are visually dissimilar.

2. The word **HUMMER** is a common English language word. In addition, the mark **HUMMER** has been used by the Applicant (and/or its predecessor in interest) in connection with motor vehicles for over twenty (20) years. As a result of this extensive use, the mark **HUMMER** is well known in the United States in connection with motor vehicles. Therefore, it is likely that consumers will interpret the mark **HUMMER** on the goods identified in the Applicant's application as indicating that these goods are associated with, or sponsored by, the owner of the mark **HUMMER** for motor vehicles.

3. **HUMMEL** has no common English language meaning and would be interpreted as a surname.

4. In view of the foregoing, the Applicant's Mark and Opposer's marks have different commercial impressions.

5. Although **HUMMEL** is a surname, the Registrant has not shown that the mark has acquired distinctiveness. Thus, the mark **HUMMEL** (without the specific design elements shown in the registrations claimed by Opposer) should be afforded narrow protection.

6. The Applicant's Mark has been used in connection with the goods identified in the application since 1997. Despite the contemporaneous use the Applicant's and Opposer's marks, on information and belief, there have been no instances of actual confusion.

7. There are numerous coexisting third party registrations which are composed of or comprise the word **HUMMEL** in connection with a wide variety of goods and services. This factor also narrow the scope of the protection which should be afforded the Opposer's marks.

WHEREFORE, Applicant requests that the Notice of Opposition be dismissed in its entirety and that the Applicant's Mark be allowed continued registration.

Respectfully submitted,


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Date: May 13, 2002

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **APPLICANT'S ANSWER TO NOTICE OF OPPOSITION** was served by first class mail, postage prepaid, this 13th day of May, 2002 upon counsel for Opposer:

Richard J. Basile
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MARIE ANNE MASTROVITO